

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD LEE JOHNSEN,

Plaintiff,

V.

HENRY TAMBE,

Defendant.

C19-141 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The Court has received back an envelope addressed to plaintiff pro se Richard Lee Johnsen at the Skagit County Justice Center, marked "Not In Custody" and "Return to Sender." See docket no. 41. The envelope contained the service copy of the Report and Recommendation ("R&R") of the Honorable Michelle L. Peterson, docket no. 40. The R&R states that, although mail sent by the Court to plaintiff was previously returned as undeliverable, see docket no. 38, plaintiff appears to have received a copy of defendant's motion for summary judgment, docket no. 35, which the R&R recommends granting, as well as the notice defendant was required to provide pursuant to Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998), docket no. 32. See R&R at 2 n.1 (docket no. 40). Having reviewed the docket for Skagit County Superior Court Case No. 17-1-01183-29, in connection with which plaintiff was previously in custody, the Court is not persuaded that plaintiff received the Rand notice or defendant's motion for summary judgment. Plaintiff appears to have been released from the Skagit County Justice Center on July 16, 2019. The Rand notice was not, however, mailed to plaintiff at the Skagit County Justice Center until August 23, 2019, and defendant's motion for summary judgment was sent thereafter, on August 26, 2019. The record does not affirmatively reflect that plaintiff received either of those documents. If defendant can verify that plaintiff was actually

1 served with the Rand notice and the pending motion for summary judgment, he shall file
2 a declaration within seven (7) days of the date of this Minute Order. If not, defendant
3 shall take steps to locate plaintiff and arrange for service of the Rand notice, as well as
his motion, file a revised declaration of service, and renote his motion for an appropriate
date. The R&R, docket no. 40, is VACATED, and this matter is REFERRED back to
Magistrate Judge Peterson for further proceedings.

5 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
record and to Magistrate Judge Peterson. The Clerk shall also send a copy of this Minute
Order to Dennis Rollin Scott, who represents plaintiff in Skagit County Superior Court
6 Case No. 17-1-01183-29, at the following address: 1004 7th Street, Suite 208, Anacortes,
WA 98221-4133.

Dated this 16th day of October, 2019.

William M. McCool
Clerk

s/Karen Dews
Deputy Clerk